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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/716,927	•	11/19/2003	Christopher P. Ausschnitt	FIS920030333 US1	6399	
29505	7590	06/29/2004		EXAM	IINER	
DELIO & PETERSON, LLC				STOCK JR, GORDON J		
121 WHITNEY AVENUE NEW HAVEN, CT 06510		· - —		ART UNIT	PAPER NUMBER	
NEW HAY	Liv, Ci	30310		2877		

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)				
Office Action Summan	10/716,927	AUSSCHNITT ET AL.				
Office Action Summary	Examiner	Art Unit				
The MAILING DATE of this communication app	Gordon J Stock	2877				
Period for Reply	ears on the cover sheet with the	correspondence address				
A SHORTENED STATUTORY PERIOD FOR REPL' THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1: after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period v - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be to y within the statutory minimum of thirty (30) da will apply and will expire SIX (6) MONTHS fror , cause the application to become ABANDON	imely filed ys will be considered timely. In the mailing date of this communication. ED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 2a) This action is FINAL. 2b) This 3) Since this application is in condition for allower closed in accordance with the practice under E	s action is non-final. nce except for formal matters, pr					
Disposition of Claims						
4) Claim(s) 1-36 is/are pending in the application. 4a) Of the above claim(s) is/are withdray 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-16;17-22;23-36 are subject to restri	wn from consideration. ction and/or election requiremen	nt.				
 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. 						
10) ☐ The drawing(s) filed on is/are: a) ☐ acc Applicant may not request that any objection to the						
Replacement drawing sheet(s) including the correct	tion is required if the drawing(s) is o	bjected to. See 37 CFR 1.121(d).				
Priority under 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
Attachment(s)						
1) Notice of References Cited (PTO-892)	4) Interview Summar					
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 	Paper No(s)/Mail I 5) Notice of Informal 6) Other:	Patent Application (PTO-152)				

Application/Control Number: 10/716,927 Page 2

Art Unit: 2877

DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-16, drawn to a target system for determining alignment error, classified in class 257, subclass 497.
 - II. Claims 17-22, drawn to a metrology tool system, classified in class 356, subclass401.
 - III. Claims 23-36, drawn to a method for determining alignment error, classified in class 430, subclass 22.
- 2. Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the metrology system needs each grid segment having a distance between elements equal to the same period and does not need a first and at least one second contrasting set of grid elements. The subcombination has separate utility such as in an exposure apparatus.
- 3. Inventions III and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the

Art Unit: 2877

process of determining alignment error may be practiced by another materially different apparatus such as a projection exposure apparatus.

- 4. Inventions I and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the target system can be used in an exposure method or electronic substrate fabrication method.
- 5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gordon J Stock whose telephone number is (571) 272-2431. The examiner can normally be reached on 8:00-4:30 p.m., Monday to Friday.

Application/Control Number: 10/716,927

Art Unit: 2877

Page 4

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached at (571) 272-2415. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

June 16, 2004

ZANDRA V. SMITH PRIMARY EXAMINER

> Zandra V. Smith Primary Examiner Art Unit 2877